

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRYAN A. MILLER,

Defendant.

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8:04CR491

ORDER

This matter is before the court on the motions for an extension of time by defendant Bryan A. Miller (Miller) (Filing No. 9). Miller seeks an extension of time to August 6, 2005, in which to file pretrial motions pursuant to paragraph 3 of the progression order (Filing No. 7). Defense counsel represents to the court that counsel for the government has no objection to the extension. Miller has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Miller consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 11). Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Defendant Miller's motion for an extension of time (Filing No. 9) is granted. Defendant Miller is given until **on or before August 5, 2005**, in which to file pretrial motions pursuant to the progression order (Filing No. 7). The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **July 11, 2005 and August 5, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

2. The tentative setting of an evidentiary hearing for 1:30 p.m. on July 14, 2005, is **canceled** and will be re-scheduled in the event any pretrial motions are filed in accordance with this order.

DATED this 11th day of July, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge